

Meeting of:	<b>Statutory Licensing Committee</b>
Date of Meeting:	<b>Tuesday, 21 September 2021</b>
Relevant Scrutiny Committee:	Homes and Safe Communities
Report Title:	Review of Statement of Principles Gambling Act 2005 2022-2025
Purpose of Report:	To report back on the statutory consultation required to renew the above Statement of Principles prior to being considered by Cabinet and Council for final approval.
Report Owner:	Miles Punter, Director of Environment and Housing
Responsible Officer:	Miles Punter, Director of Environment and Housing
Elected Member and Officer Consultation:	None
Policy Framework:	The adoption of the Statement of Principles is a Council function
<p>Executive Summary:</p> <ul style="list-style-type: none"> <li>Section 349 of the Gambling Act 2005 requires that a licensing authority publish a Statement of Principles governing its licensing policy for a three-year period. The current Statement expires at the end of 2021.</li> <li>This report outlines the review and renewal process for 2022-2025 and a report back on the statutory consultation</li> <li>The report details the prescribed process to publish the next Statement of Principles including referrals to Cabinet, and finally Council for adoption</li> </ul>	

## **Recommendation**

1. Having regard to the consultation responses, that Committee approves that the Statement of Principles The Gambling Act 2005 attached at Appendix A is referred for comment to Cabinet on 8 November 2021 and then referred to Council for approval on 6 December 2021.

## **Reason for Recommendations**

1. To ensure that the Council fulfils its statutory duty as a licensing authority.  
The licensing authority must, when undertaking its functions, have regard to the licensing objectives:
  - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

## **1. Background**

- 1.1 The Council is the licensing authority for the regulation of land-based premises providing gambling facilities. The premises range from betting shops to premises offering bingo, arcades, and small society lotteries. It issues premises licences and permits. The Gambling Commission is the overall regulator for gambling in the UK, including operator licences and online gaming.
- 1.2 Section 349 of the Gambling Act 2005 requires the local authority to prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period.
- 1.3 A Statement of Licensing Principles sets out the policies the licensing authority will apply when making decisions on licensing applications and reviews. It also serves to advise applicants of any local policies or requirements to consider when drafting an application. The licensing authority must have regard to its Statement when making decisions alongside any statutory guidance issued by the Gambling Commission.
- 1.4 As outlined in the introduction to the draft Statement of Principles 2020 was an extraordinary year with gambling premises subject to lockdown. The previous report also highlighted that in December 2020 the Minister for Sport, Tourism and Heritage announced a Review of the Gambling Act 2005 Terms of Reference and Call for Evidence which overlaps with the current three-year review process.
- 1.5 The triennial review of the Statement of Principles must be undertaken, but in the light of the impact of the pandemic on premises, the absence of the reporting of local trends, and the impending review, it is proposed that the

consultation reflect this. A copy of the draft Statement of Principles is attached at Appendix A.

**1.6** The Consultation was published on the Council's website during July and August 2021.

**1.7** Notification of consultation was sent to:

- Responsible authorities including police, safeguarding and community safety
- Town and Community Councils
- Elected Members
- Trade representatives
- Problem Gambling Organisations

## **2. Key Issues for Consideration**

**2.1** The following responses have been received:

- Welsh St Donats Community Council responded that it had no comment to make.
- Gosschalks Solicitors responded, and a copy of their letter submitted on behalf of the Betting and Gaming Council is attached at Appendix B.

**2.2** Members are advised of the role of the organisation as set out in the letter from Gosschalks: "The Betting and Gaming Council (BGC) was created in 2019 as the new standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo, and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers."

**2.3** The concluding response is "On behalf of the BGC we welcome the light touch and non-prescriptive nature of the statement of principles. We also welcome the acknowledgement within the Foreword that since the last review, the Council has received no evidence of new trends or concerns in the land-based market that it regulates and, in the circumstances, there are no proposals to make any changes to the existing Statement of Principles."

**2.4** "There is nothing within the existing Statement of Principles which we would seek to raise with you."

**2.5** No further responses were received by the closing date of 26 August 2021 and therefore there are no consultation responses to report for consideration.

**2.6** The Council must publish its Statement of Licensing Principles for the next three-year period and the recommendation sets out the proposed process for adoption

## **3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?**

**3.1** This report has been screened for evidence of the Five Ways of Working and how it may contribute to our Well-being Objectives.

**3.2** Prevention: the purpose of this regulatory function is to protect the public and ensure businesses comply with licence terms and conditions

## **4. Resources and Legal Considerations**

### **Financial**

**4.1** None for the authority. The cost of consultation will be met from existing budget

### **Employment**

**4.2** None

### **Legal (Including Equalities)**

**4.3** Section 349 of the Gambling Act 2005 states:

**4.4** (1) A Licensing Authority shall before each successive period of three years -

- (a) prepare a Statement of the Principles that they propose to apply in exercising their functions under this Act during that period, and
- (b) publish it.

**4.5** Consultation on this matter is prescribed by the Gambling Act 2005 and the Gambling Act 2005 (Licensing Policy Statement)(England and Wales) Regulations 2006.

## **5. Background Papers**

None.



**The Vale of Glamorgan Council**

**Statement of Principles**

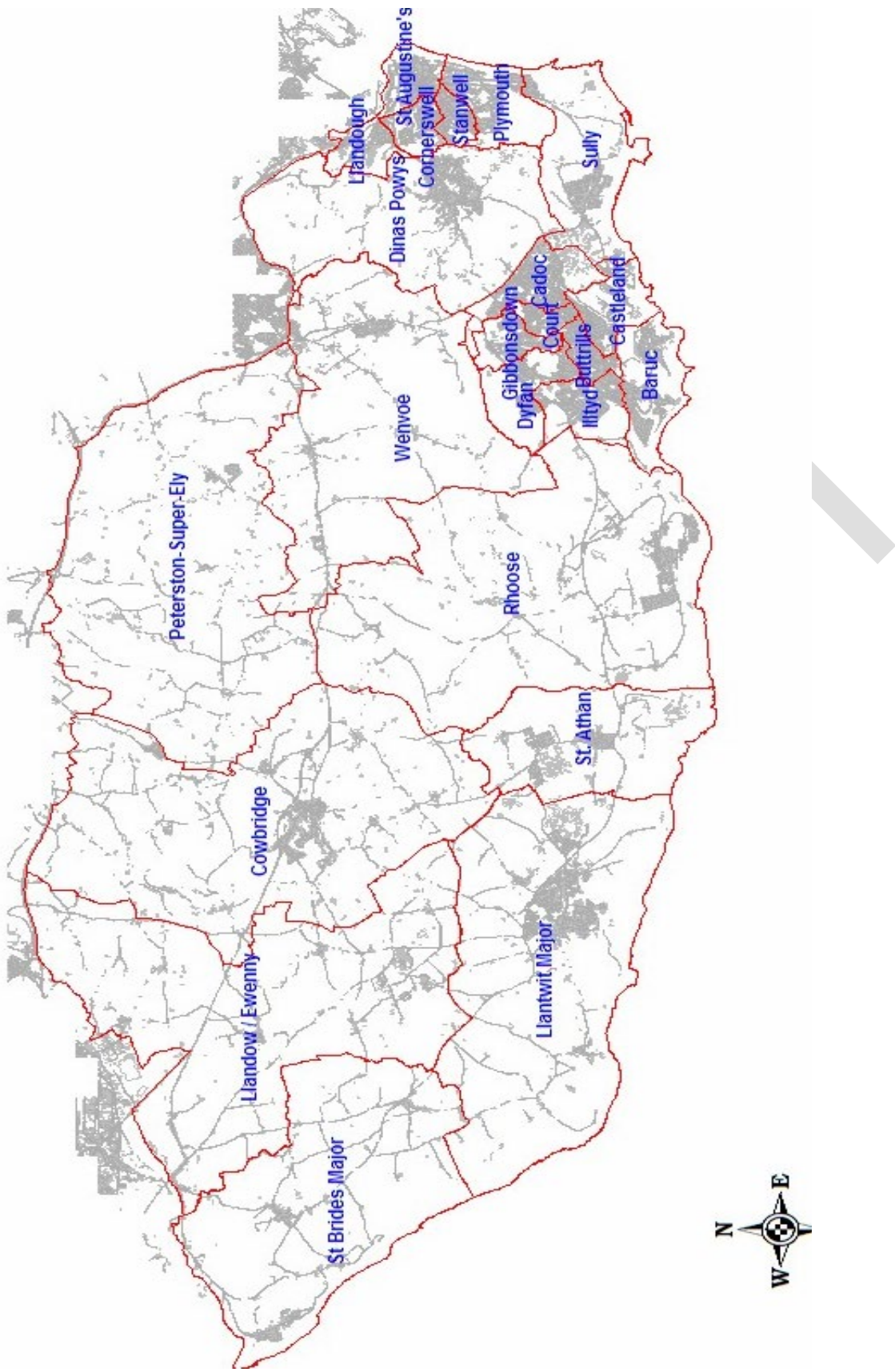
**The Gambling Act 2005**

**2022 – 2025**

## Contents

<b>Contents</b>	<b>1</b>
<b>Map of the Vale of Glamorgan</b>	<b>2</b>
<b>Part A</b>	<b>3</b>
1. The licensing objectives	<b>3</b>
2. Introduction	<b>3 – 4</b>
3. Responsible Authorities	<b>4</b>
4. Exchange of information	<b>4</b>
5. Interested parties	<b>4 - 5</b>
6. Compliance and enforcement	<b>5-6</b>
7. Licensing authority functions	<b>6 -7</b>
<b>Part B - Premises licences</b>	<b>7</b>
1. General Principles	<b>7 - 11</b>
2. Adult Gaming Centres	<b>11 - 12</b>
3. (Licensed) Family Entertainment Centres	<b>12 - 13</b>
4. Bingo	<b>13</b>
5. Tracks	<b>13</b>
6. Betting premises	<b>14</b>
7. Casino	<b>14</b>
8. Travelling Fairs	<b>14 - 15</b>
9. Provisional Statements	<b>15</b>
10. Reviews	<b>15</b>
<b>Part C - Permits / Temporary and Occasional Use Notices</b>	<b>16</b>
1. Unlicensed Family Entertainment Centre gaming machine permits	<b>16</b>
2. (Alcohol) Licensed premises gaming machine permits / Automatic entitlement	<b>17</b>
3. Prize Gaming Permits	<b>17</b>
4. Club Gaming and Club Machines Permits	<b>18</b>
5. Temporary Use / Occasional Use Notices	<b>18</b>
6. Small Society Lotteries	<b>18</b>
7. Register	<b>19</b>

**To be amended following consultation**



## Foreword

The Gambling Act 2005 sets out how gambling in Great Britain is regulated. It came fully into force in September 2007, and covers arcades, betting, bingo, casinos, gaming machines, society lotteries, and remote gambling (including online gambling). However, the Vale of Glamorgan Council, as the licensing authority, is only responsible for the administration and enforcement of gambling premises and has no jurisdiction over online forms of bingo, betting or other online games or platforms. The 2005 Act also created and set the functions and objectives of the Gambling Commission as the principal regulator in the United Kingdom.

The Vale of Glamorgan Council must review its Statement of Principles in respect of gambling at least every three years. Since the last review the main legislative change has been to cut the maximum stake on B2 gaming machines in betting shops from £100 to £2.

In December 2020 the Minister for Sport, Tourism and Heritage announced a Review of the Gambling Act 2005 Terms of Reference and Call for Evidence which overlaps with the current three-year review process.

The background papers indicate that the Review will be led by Ministers at the Department for Digital, Culture, Media & Sport, with engagement from across government, the Gambling Commission, the industry, health and charitable sector, those with lived experience of gambling harm, and other stakeholders.

After the initial 16 weeks call for evidence, the government will assess the evidence presented, alongside other data, with the aim of setting out conclusions and any proposals for reform in a white paper in 2022.

The period 2020 to 2021 has also been unprecedented in terms of the Coronavirus pandemic, where gambling premises have been closed for periods of time during lockdowns. The UK government's assessment as part of the review notes that the gross gambling yield (GGY - amount staked minus winnings paid out) for online gambling in Great Britain grew 18% in real terms between 2015/16 and 2018/19.

Much of this growth was channel shift from land-based gambling (the market overall grew just 4% in that period) and in September 2019 the GGY generated by remote gambling overtook that of land-based gambling for the first time (excluding lotteries).

Since the last local review, the Council has received no evidence of new trends or concerns in the land-based market it regulates. The Government review highlights that the steady industry growth and shift to online have seen neither a marked increase in overall gambling participation, nor an increase in population problem gambling rates.



That being the case, it is proposed that the Vale of Glamorgan Council undertake a statutory consultation to renew its Statement of Principles with no changes in policy, and for a further review to be undertaken once the Governments White Paper and timetable for any reform is available.

## **PART A**

### **1. The Licensing Objectives**

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Gambling Commission does not seek to offer a definition of “vulnerable persons”, but it does for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This Licensing Authority will consider this licensing objective on a case-by-case basis.

This Licensing Authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy

### **2. Introduction**

The Vale of Glamorgan Council is Wales’ most southern Unitary Authority. There are 4 Town Councils and 22 Community Councils in the area. It covers 33,097 hectares (331 square miles) with 53 kilometres of coastline. The Council area has a population of 128,900. The main settlements are Barry, Penarth, Llantwit Major, Dinas Powys, Cowbridge and Rhoose. Barry, the largest town with a population of 53,000 is the Vale’s administrative centre, a seaside resort and port. Cardiff Airport

is located 4 miles West of Barry. These areas are shown in the map at the front of this Statement.

It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

The Vale of Glamorgan Council consulted with the following parties between:

- Sample of premises licence holders
- All responsible authorities
- Town and Community Councils
- Elected Members
- Trade representatives
- Problem Gambling Organisations

The Wellbeing and Future Generations (Wales) Act 2015 requires all Welsh local authorities to think about the long-term impact of their decisions, to work better with people, communities and each other, and to prevent persistent problems such as poverty, health inequalities and climate change.

The Licensing Authority will have regard to the Chief Medical Officer for Wales Report to support the licensing objective to protect children and other vulnerable persons from being harmed or exploited by gambling.

### **3. Responsible Authorities**

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are;

- a) the need for the body to be responsible for an area covering the whole of the licensing authority's area and;
- b) the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

In accordance with the regulations, the Council designates the Children and Family Services of the Vale of Glamorgan Council for this purpose. The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at [www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk) or upon request to the Licensing Department.

### **4. Exchange of Information**

The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which

includes the provision that the Data Protection Act 2018 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **5. Interested parties**

Interested parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”.

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making.

It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors, AMs and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, town and community councils likely to be affected will be considered to be interested parties.

Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views, then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Department [Licensing@valeofglamorgan.gov.uk](mailto:Licensing@valeofglamorgan.gov.uk).

## **6. Compliance and Enforcement**

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- |                |   |
|----------------|---|
| Proportionate: | regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised |
| Accountable:   | regulators must be able to justify decisions and be subject to public scrutiny  |
| Consistent:    | rules and standards must be joined up and implemented fairly,   |
| Transparent    | regulators should be open and keep regulations simple and user friendly   |
| Targeted:      | regulation should be focused on the problem and minimise side effects   |

This Licensing Authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.

The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

## 7. Licensing Authority functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

### **PART B PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

#### **1. General Principles**

##### ***(i) Decision making***

This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice and / or relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing principles.

Each case will be decided on its merits and will depend to a large extent on the type of gambling that is proposed for the premises. Demand issues cannot be considered with regard to the location of premises but considerations in terms of

the licensing objectives can.

This Licensing Authority is aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, the Licensing Authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives.

### ***(ii) Definition of “premises”***

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises.

This licensing authority takes note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

### ***(iii) Location***

This licensing authority will follow the Gambling Commission's guidance that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

#### ***(iv) Premises “ready for gambling”***

The Gambling Commission Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

#### ***(v) Duplication with other regulatory regimes:***

This Licensing Authority will seek to avoid duplication with other statutory/regulatory systems where possible, including planning. The Licensing Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about proposed conditions which are not able to be met by the applicant due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

#### ***(vi) Door Supervisors***

If the licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises condition to this effect. Where it is decided that supervision of entrances / machines is appropriate for particular cases, consideration of whether these need to be SIA licensed or not will

be necessary.

### **(vii) Risk Assessments**

The Gambling Commission social responsibility code within the Licence Conditions and Codes of Practice (LCCP) requires gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks. This is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.

These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

The Licensing Authority expects applicants to have a good understanding of the area in which they either operate, or intend to operate.

It is a mandatory requirement that risk assessments are carried out:

- when there are significant changes in local circumstances
- when there are significant changes at a licensee's premise that may affect their mitigation of local risks
- when applying for a variation of a premise licence
- when applying for the grant of a premise licence

The Licensing Authority would expect all premises to carry out a risk assessment and make them available upon request as good practice.

Matters that the assessment may include:

- The area in which the premise is located / to be located (e.g. what types of premise, open spaces, access routes are in the vicinity)
- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of persons using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or



- distracted from supervising the premises and observing those persons using the premises.
- Arrangements for monitoring and dealing with under age persons and vulnerable persons, which may include dedicated and trained personnel, leaflets, posters etc.
  - The provision of signage and documents relating to games rules, gambling care providers and other relevant information.
  - The impact of any promotional material associated with the premises and whether this could encourage the use of the premises by children or young people if they are not legally allowed to do so.

This is not an exhaustive list.

### ***(viii) Conditions***

Any conditions attached to licences will be proportionate and be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required - the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- conditions in relation to stakes, fees, winning or prizes.

This licensing authority acknowledges that mandatory conditions are set by the Secretary of State with the intention that no further regulation in relation to that matter is required. Therefore it is considered extremely unlikely that the authority will need to impose individual conditions imposing a more restrictive regime in relation to matters that have already been dealt with by mandatory conditions.

The licensing authority will only consider imposing conditions where there is evidence of regulatory concerns of an exceptional nature and any additional licence conditions will relate to the licensing objectives.

In addition to any default conditions that may be prescribed by regulation, any conditions attached to licences by the licensing authority will be proportionate and will be:

- relevant to the need to make the proposed building suitable as a gambling facility;
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and,
- reasonable in all other respects.

This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

## **2. Adult Gaming Centres**

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

The Licensing Authority would request applicants to make contact with the Authority at their earliest convenience to discuss and work through these arrangements before making application and during any consultation.

The Licensing Authority will expect the applicant to satisfy the Authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Such measures may include:

- a) CCTV
- b) Supervision of entrance/exits
- c) Location of entry
- d) Physical separation of areas

This is not an exhaustive list

This Licensing Authority will consider the below criteria when access to and separation between an Adult Gaming Centre and an Unlicensed Family Entertainment Centre / Family Entertainment Centre is required;

- a) whether partitions are permanently fixed
- b) the materials to be used for the partitions
- c) ensuring machines are not used as a partition
- d) that access for customers between licensed areas is by way of an unlicensed area. . This area could be a lobby but must not contain any gambling facilities but may contain an ATM, drinks machines etc.

A rope cordoning off an entrance or moveable partition would not be deemed sufficient

This is not an exhaustive list

### **3. (Licensed) Family Entertainment Centres**

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority, for example, that there will be sufficient measures to ensure that under 18-year-olds do not have access to the adult only gaming machine areas. Such measures may include:

- a) CCTV
- b) Supervision of entrance/exits
- c) Location of entry
- d) Physical separation of areas

This is not an exhaustive list.

This Licensing Authority will also consider the below criteria with regard to the over 18s area:

- e) whether partitions are permanently fixed
- f) the materials to be used for the partitions
- g) ensuring machines are not used as a partition

This is not an exhaustive list.

The Licensing Authority would request applicants to make contact with the Authority at their earliest convenience to discuss and work through these arrangements before making application and during any consultation.

### **4. Bingo premises**

Children are allowed into premises licensed for bingo but they are not allowed to participate in gambling, other than on category D machines. Where category C or above machines are available on the premises to which children are admitted the Licensing Authority will ensure that:

- a) All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- b) Only adults are admitted to the area where the machines are located.
- c) Access to the area where the machines are located is supervised

- d) The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- e) At the entrance to, and inside any such are there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

## **5. Tracks**

This Licensing Authority is aware that tracks may be subject to one or more premise licence, provided each licence relates to a specified area of the track. Tracks may be a horse racecourse, greyhound track or other premise where any part where a race or sporting event takes place or is intended to take place.

This Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

## **6. Betting premises**

Children are not permitted entry to a premise with a betting premise licence, they may, however, be permitted entry to tracks.

The Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events.

Betting premises may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet over the counter. These “betting machines” are not gaming machines: they merely automate the process, which can be conducted in person and, therefore, do not require regulation as a gaming machine.

Under section 181 of the Act the Licensing Authority has power to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

When considering whether to impose a condition to restrict the number of betting machines in particular premises the Licensing Authority amongst other things, will take into account the size of the premises, the number of counter positions available for person-to-person transactions and the ability of staff to monitor the use of the machines.

The Licensing Authority cannot restrict the number or category of gaming machines in a betting premise. They are permitted to have up to 4 categories B, C or D gaming machines.

## **7. Casinos**

This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this statement of principles with details of that resolution. Any such decision will be made by Full Council.

## **8. Travelling Fairs**

This Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **9. Provisional Statements**

An application for a provisional statement can be made to the Licensing Authority in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

## **10. Reviews**

Interested parties or responsible authorities can make requests for a review of a premises licence; however, it is for the Licensing Authority to decide whether the review is to be carried-out. The application for a review may be (but need not be) rejected if the Licensing Authority considers the grounds on which the review is sought:

- are not relevant to the Commission Guidance/codes of practice, statement of principles, or licensing objectives. Examples include demand for a gambling premise, traffic congestion.
- are frivolous
- are vexatious
- will certainly not cause the Authority to revoke/suspend or remove/amend or attach conditions on the licence.
- are substantially the same grounds cited in a previous application relating to the same premise (Licensing Authority to take into account time lapsed since previous application).
- are substantially the same as representations made at the time the application relating to the same premise.

## **PART C**

### **Permits / Temporary & Occasional Use Notice**

#### **1. Unlicensed Family Entertainment Centre gaming machine permits**

Where a premise does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premise will be wholly or mainly used for making gaming machines available for use.

##### Statement of Principles

The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The efficiency of such policies and procedures will each be considered on their merits, however, they may include:

- appropriate measures and training for staff as regards suspected truant children on the premises
- measures and training covering how staff would deal with unsupervised very young children being on the premises
- measures and training covering how staff would deal with children causing perceived problems on or around the premises.
- the arrangements for supervision of premises either by staff and / or the use of CCTV.

This Licensing Authority in addition will also expect that applicants demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs

- That staff are trained to have a full understanding of the maximum stakes and prizes.
- A criminal record disclosure check from a recognised body dated within one calendar month of the date of the application being submitted to the Licensing Authority.

Where an applicant provides evidence that he has an Operating Licence and has as a result undergone rigorous checks by the Gambling Commission, then a criminal record disclosure check will not be required

While the Licensing Authority cannot attach conditions to this type of permit, the Licensing Authority can refuse applications if they are not satisfied that the issues raised in the “Statement of Principles” have been addressed through the application.

Applicants only need to address the “Statement of Principles” when making their initial applications and not at renewal time unless there have been changes.

## **2. (Alcohol) Licensed premises automatic entitlement 2 machines and gaming machine permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority and pay the prescribed fee. If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as we think relevant.”

This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to:

- the need to protect children and vulnerable persons from harm or being exploited by gambling
- whether the applicant can satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.

Measures which will satisfy the authority that there will be no access may include:

- the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18
- Appropriate notices and signage

## **3. Prize Gaming Permits**

Gaming is defined as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by

the gaming. The prizes will be determined by the operator before play commences. A prize gaming permit is a permit issued by the Authority to authorise the provision of facilities for gaming with prizes on specified premises.

The licensing authority does not intend to publish a separate statement of principles for considering applicant suitability for applications for prize gaming permits under paragraph 8 of Schedule 14 to the Act and, for ease of reference, includes this as part of this policy document.

This licensing authority will expect that, when making an application for a prize gaming permit, the applicant should set out the types of gaming that he or she is intending to offer and be able to demonstrate:

- that they understand the limits of stakes and prizes that are set out in Regulations and
- that the gaming offered is within the law.
- Clear policies are available which outline the steps to be taken to protect children from harm

#### **4. Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines, equal chance gaming and games of chance. The Licensing Authority will only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit in addition to the statutory conditions.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003.

There is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.

The Licensing Authority may use the following grounds to refuse an application:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;



- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

## **5. Temporary Use Notices / Occasional use Notices**

The licensing authority has very little discretion as regards occasional use notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling.

The licensing authority will have regard to guidance regarding the examples of premises that might be suitable for a temporary use notice which include hotels, conference centres and sporting venues.

The licensing authority will have particular regard to whether the effect of temporary use notices is to permit regular gambling in a place that could be described as one set of premises. Factors such as ownership, occupation and control of the premises will be considered when deciding whether to object to a temporary use notice.

## **6. Small Society Lotteries**

A Small Society Lottery is one that is established for charitable purposes, for enabling participation in, or of supporting, sport, athletics or a cultural activity or for any other non-commercial purpose other than that of private gain.

Tickets should not be sold in a street, where street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls). Tickets may, however, be sold in a street from a kiosk, in a shop or door to door.

## **7. Register**

The Licensing Authority is required to maintain a public register. The register will be available for the public to view at any reasonable time. If requested, the Licensing Authority must supply a copy of the information contained in any entry in its register in legible form. A fee may be charged for any such copy. The Vale of Glamorgan Council will charge a standard fee of £25 per copy requested.

---

This document is available in Welsh, large print or audio. If you wish to receive a copy of this statement in Welsh, large print or audio or should you require any further information please contact:

Licensing Department  
Vale of Glamorgan Council  
Civic Offices  
Holton Road  
Barry  
CF63 4RU

Tel: 01446 709105

Email: [Licensing@valeofglamorgan.gov.uk](mailto:Licensing@valeofglamorgan.gov.uk)

Website: [www.valeofglamorgan.gov.uk](http://www.valeofglamorgan.gov.uk)

This Statement of Principles was approved by Council on **XXXXXX**

DRAFT

BY EMAIL ONLY  
Licensing Section  
Vale of Glamorgan Council  
Civic Offices  
BARRY

**Please ask for:** Richard Taylor  
**Direct Tel:** 01482 590216  
**Email:** rjt@gosschalks.co.uk  
**Our ref:** RJT / MJM / 123267.00001  
#GS4011138  
**Your ref:**  
**Date:** 4<sup>th</sup> August 2021

Dear Sir/Madam,

### **Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

### **The Betting and Gaming Council**

The Betting and Gaming Council (BGC) was created in 2019 as the new standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

The BGC has four principle objectives. These are to –

- **create a culture of safer gambling throughout the betting and gaming sector, with particular focus on young people and those who are vulnerable**
- **ensure future changes to the regulatory regime are considered, proportionate and balanced**
- **become respected as valuable, responsible and engaged members of the communities in which its members operate**
- **safeguard and empower the customer as the key to a thriving UK betting and gaming industry**

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

### **Betting and Gaming in the UK**

Queens Gardens, Hull, HU1 3DZ T 01482 324252 F 0870 600 5984 W [www.gosschalks.co.uk](http://www.gosschalks.co.uk) DX 11902 – Hull

Gosschalks is the trading name of Gosschalks LLP, a Limited Liability Partnership registered in England and Wales with number OC431300. Our registered office is at Queen's Gardens, Hull, HU1 3DZ. We use the term "Partner" to refer to a member of the LLP or an employee or consultant who is a lawyer or with equivalent standing and qualifications. A list of the members of Gosschalks LLP is available for inspection at the above address.

Gosschalks LLP is authorised and regulated by the Solicitors' Regulation Authority under number 670570.

Betting and gaming is an incredibly important part of the UK leisure and hospitality industry, employing over 70,000 people, including 50,000 in betting, 13,000 in casinos and 10,000 people directly employed online. The betting and gaming industry contributes £8.7 billion Gross Value Added to the UK economy & contributes £3.2 billion to HM Treasury. In addition, casinos contribute over £120 million to the tourism economy each year.

Betting and gaming is widely enjoyed in the UK. Around 30 million people participate in some sort of gambling, whether that is on the National Lottery, placing a bet in betting shops, playing in casinos or at bingo. The overwhelming majority of these people do so safely without reporting any problems. Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that the number of betting offices (as of March 2020) was 7681. This is reducing every year and has fallen from a figure of 9137 in March 2014. These figures do not take into account the COVID 19 period which betting offices saw a further 374 betting offices close.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- In April 2019 a maximum stake of £2 was applied to the operation of fixed odds betting terminals
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable and possibly falling.

### **Problem Gambling**

Problem gambling rates are static or possibly falling. The reported rate of 'problem gambling' (according to either the DSM-IV or the PGSI) was 0.8% of the adult population in 2015, in 2016 it was 0.7% and in 2018 it was 0.5% of the adult population.

This is termed statistically stable but is encouraging that we might finally be seeing a reduction in problem gambling due to the raft of measures that have been put in place recently both by the industry, the Gambling Commission and the Government – from a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures and voluntary restrictions on advertising. These rates have remained broadly the same since the introduction of the Gambling Act 2005.

Whilst one problem gambler is too many, both the Government and regulator both say there is no evidence that problem gambling has increased in recent years.

During the Covid-19 period of lockdown, both the Gambling Commission and Government have acknowledged that problem gambling levels have not increased.

In June 2020, the BGC's five largest members committed to increasing the amount they spend on research, education and treatment (RET) services from 0.1 per cent to 0.25 per cent of their annual revenue in 2020, 0.5 per cent in 2021, 0.75 per cent in 2022 and 1 per cent in 2023. The five operators confirmed they will provide £100 million to GambleAware charity to improve treatment services for problem gamblers.

Rates of 'problem gambling' in the UK are low by international standards – compared to France (1.3%), Germany (1.2%), Sweden (2.2%) and Italy (1.27%).

The BGC supported the creation of the new NHS gambling treatment clinics who have promised 22 clinics, 3 of which are open now. We are pleased that the NHS have committed to work to increase the number of clinics in the UK in addition to existing services delivered by Gordon Moody Association and GamCare's 120 treatment centres located throughout the UK.

The BGC welcomes the Gambling Commission's National Strategy as a way of accelerating progress on responsible gambling and tackling problem gambling. Our members are fully committed to meeting this challenge and are working tirelessly to deliver new responsible gambling initiatives including technology that tackles problem gambling and supporting a statutory levy and increased funding for problem gambling clinics.

Underage participating by those aged 11-16 in any gambling activity has declined from 22% to 11% over the past decade; here, 'gambling activity' mainly relates to personal betting (e.g. playing cards with friends) and legal play of lotteries (e.g. participating with consent of parents / guardians). BGC members have a zero tolerance to those under the age of 18 attempting to use their products.

### **Working in partnership with local authorities**

The BGC is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### **Differentiation between Licensing Act 2003 and Gambling Act 2005 applications**

When considering applications for premises licences, it is important that a clear distinction is made between the regimes, processes and procedures established by Gambling Act 2005 and its regulations and those that are usually more familiar to licensing authorities – the regimes, processes and procedures relating to Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, those steps being then converted into premises licence conditions, there is no such requirement in Gambling Act 2005 applications where the LCCP provide a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will

ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%.

When reviewing draft statements of principles in the past, we have seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The BGC is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

### **Considerations specific to the draft statement of principles 2022 to 2025**

On behalf of the BGC we welcome the light touch and non-prescriptive nature of the statement of principles. We also welcome the acknowledgement within the Foreword that since the last review, the Council has received no evidence of new trends or concerns in the land based market that it regulates and in the circumstances, there are no proposals to make any changes to the existing Statement of Principles.

There is nothing within the existing Statement of Principles which we would seek to raise with you.

### **Conclusion**

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope that these comments above are useful. The BGC will work with you to ensure that its members' operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,



**GOSSCHALKS LLP**